

10
MB



DMC

20150626000124300 S/INS
Bk: RB5974 Pg: 128
06/26/2015 02:44:05 PM 1/4

FILED Mark Chilton
Register of Deeds, Orange Co., NC
Recording Fee: \$26.00
NC Real Estate TX: \$.00

RC

Prepared by: Margaret Hauth, AICP, CZO, Planning Director, Town of Hillsborough Planning Department
Return to: Julie Smith, P.O. Box 1411, Hillsborough, NC 27278

ORANGE COUNTY **TOWN OF HILLSBOROUGH** **NORTH CAROLINA**
SPECIAL USE PERMIT #2015-01

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned property owner, ZV Smith, Jr. Family Trust acknowledges the receipt of this Special Use Permit for the use and development of the property hereinafter described and as submitted by the Applicant, Julie Smith; the same was granted by the Town of Hillsborough on June 8, 2015, the terms of which are as follows:

NAME OF PROJECT: 128 West Margaret Lane office
NAME OF PROPERTY OWNER: ZV Smith, Jr. Family Trust
NAME OF APPLICANT: Julie Smith
TYPE OF SPECIAL USE: Convert single-family dwelling to real estate, attorney, and other office uses/office sharing arrangement

DESCRIPTION OF PREMISES

LOCATION: 128 West Margaret Lane

PARCEL IDENTIFICATION NUMBER: 9874-06-2054 *gaw*

DESCRIPTION OF PROPERTY: BEGINNING on the northern side of W. Margaret Lane (33' Public R/W) at a RR spike found, the southeastern corner of the property of William D. Payne, III, now or formerly, as described in Deed Book 5664, Page 581, Orange County Registry, and running with the eastern line of Payne N 01°36'16" E, 100.37 feet to a computed point in a fence and in the southern line of the property of Brian W. Johnson, now or formerly, as described in Deed Book 2419, Page 457, Orange County Registry (being also the southern line of Tract A as shown on plat in Map Book 61, Page 184, Orange County Registry); thence with the southern line of Johnson and with the southern line of the property of Judith M. Hauser, P.C., now or formerly, as described in Deed Book 5749, Page 395 (being also the southern line of Tract B as shown on plat in Map Book 61, Page 184, Orange County Registry) S 89°45'17" E, 89.99 feet to a 1/2 inch existing iron pin in the western line of the

property of the Town of Hillsborough now or formerly, as described in Deed Book 486, Page 195 (and shown on the plat recorded in Map Book 40, Page 85, Orange County Registry); thence with the western line of the Town of Hillsborough, S 01°39'06" W, 100.00 feet to a ½ inch existing iron pin in the northern margin of W. Margaret Lane; thence with the northern margin of W. Margaret Lane, N 89°59'31" W, 89.91 feet to the BEGINNING, containing 0.21 acres, more or less, (9009 square feet) as shown on the survey dated February 12, 2015, by Robert S. Jones, P.L.S. entitled "Survey For Smith Land & Realty, Inc.

Having heard all the evidence and argument presented at the public hearing on April 16, 2015, the Board finds that the application is complete, that the application complies with all the applicable requirements of the Town of Hillsborough Unified Development Ordinance for the development proposed, and that therefore the application to make use of the above-described property for the purpose indicated is hereby approved, subject to any and all applicable provisions of the Town of Hillsborough Unified Development Ordinance, and the following **waivers and special terms and conditions**:

Waivers Granted from Section 6 (Development Standards) of the Unified Development Ordinance

- a. Section 6.3.2 (Table of Dimensional Requirements – Non-residential): Minimum Lot Area for Neighborhood Business Special Use = 10,000 square feet. The minimum lot size is reduced to match the current lot size of 9,009 square feet as shown on the referenced survey.
- b. Table 6.5.9 (Required Buffers): Neighborhood Business Special Use provides a Type A buffer when adjacent to property zoned R-20. This requirement is waived along the portion of the west property line where the existing wooden privacy fence is not installed.
- c. Section 6.10.3 (Landscaping requirements (for parking lots)), subsection 7 requires five feet of landscaped area between parking and the exterior wall of a structure. This requirement is waived when the pavement currently abuts the structure. No addition of landscape materials were required in existing gaps between the pavement and structure.
- d. Section 6.10.3 (Landscaping requirements (for parking lots)), subsection 8 requires perimeter plantings around parking areas. This requirement is waived due to the lack of space to install landscaping.
- e. Section 6.11.4.1 requires a minimum light intensity of 1 foot candle for parking areas. The applicant proposes to add no exterior lights because the hours of operation cease at 8 PM.
- f. Table 6.13.3.5 Minimum number of parking spaces required would require eight spaces based on the building square footage for office use. The applicant has committed to provide four spaces using the current paved driveway and further committed that employees will use other public parking in the vicinity rather than the driveway.

Approval Conditions

Conditions Related to the Development

- 1. **Approved Plans and Application Materials:** The application materials including, but not limited to, the survey and narrative dated February 2, 2015 are those approved with this Permit.
- 2. **Approved Uses:** The permitted uses of the property are limited to those described in the narrative which accompanied the application. Provided, however, that similar office use (or uses, if more than one occupant) with (a) no more than 8 employees (combined total of all offices) working from the site, and (b) hours of operation limited to 6 AM to 8 PM seven days a week, may also occupy and operate at the property.
- 3. **Additional Permits and Approvals Required:** Any development or modifications to the site are subject to all review and permit requirements of the Town.

Additional Stipulations

The following additional stipulations shall apply to this Permit:



Permit Recordation Requirement: Pursuant to Section 3 (Administrative Procedures), Subsection 3.8 (Special Use Permit), Paragraph 3.8.16 (Formalizing the Outcome), this Permit shall be recorded in the Orange County Register of Deeds Office within 10 days of its receipt. The Permit will not be effective, and no further permits or approvals for the development issued, until the Permit has been recorded. In addition, nothing authorized by this Permit may be done until the property owner properly executes, and returns to the Town a copy of the recorded Permit with the recording information attached thereto by the Orange County Register of Deeds.

Vested Right Established: A two-year vested right pursuant to G.S. 160A-385.1 and Section 1 (General Provisions), Subsection 1.8 (Vested Rights), Paragraph 1.8.4 (Duration and Termination of Statutory Vested Rights) of the Unified Development Ordinance is established as of the date hereof. Under the Statute and Ordinance provisions, unless terminated at an earlier date, the Permit is vested until **June 8, 2017**. Requests for an extension of this Permit's vested rights beyond the stated expiration date must be made to the Town in writing before the vested right expiration date is reached.

Permit Expiration: As provided in Section 3, Subsection 3.8, Paragraph 3.8.26 (Expiration) of the Unified Development Ordinance, this Permit shall expire 24-months from its date of approval if a Zoning Compliance Permit has not been issued for the project. Thus, the Permit will expire on **June 8, 2017** if a Zoning Compliance Permit has not been issued for the project. The Board may consider re-application for the permit on a property on which a previous permit has expired provided that all of the standards which are set forth in the Unified Development Ordinance are met, or if a request for an extension is made in writing before the expiration of the standard 24 months.

Changes and Modifications: As provided in Section 3, Subsection 3.8, Paragraphs 3.8.20 (Deviations) through 3.8.24 (Action Required on Proposed Modifications) of the Unified Development Ordinance, minor changes to this Permit may be approved by the Planning Director, as long as they are in harmony with the action of the Town Board of Commissioners, and provided such changes are not determined to be modifications (as defined in the Unified Development Ordinance). Modifications will require approval from the Town Board of Commissioners. Prior to commencement of any change in the approved plans, the Planning Director shall be consulted so as to determine whether the proposed change is considered a minor change or a modification.

Revocation: Pursuant to Section 3, Subsection 3.8, Paragraph 3.8.25 (Revocation) of the Unified Development Ordinance, the Town Board of Commissioners may revoke this Permit after a finding of the existence of any one of the following conditions:

- (a) That any governmental license or permit required for the activity authorized by the Permit have not been obtained or have been terminated; or
- (b) That any of the applicable requirements of the Unified Development Ordinance or any conditions attached to the Permit, or subsequent modification thereof, have been violated.

The Board may consider re-application for the permit on a property on which a previous permit has been revoked, provided that all of the standards which are set forth in the Unified Development Ordinance are met.

Continued Validity: The continued validity and effectiveness of this Permit is expressly conditioned on the continued compliance with the plans and conditions listed above.

Non-severability: If any part of this Permit, or any of the conditions affixed hereto shall be held invalid or void, then this Permit shall be void in its entirety, and of no effect.

Permit Runs with the Land: The terms herein contained are binding on the present owners, and their successors in title and interest, and shall henceforth be appurtenant to, and shall run with the title to said real property unless the conditions herein are otherwise vacated or changed by governmental action, the expiration of this Permit (including any approved extensions to its expiration date), the expiration of the Permit's vested right status (including any approved extensions), or vacated or modified by action of a Court of competent jurisdiction.



IN WITNESS WHEREOF, the Town has caused this Permit to be issued in its name, and the undersigned, being all of the property owners of the property above described, do hereby accept this Special Use Permit, together with all its conditions, as binding on them and their successors in interest.

Attest:

TOWN OF HILLSBOROUGH

Katherine M. Cathey
Katherine M. Cathey
Town Clerk



By Margaret A. Hauth
Margaret A. Hauth, AICP
Planning Director

ACCEPTED BY:

We, the undersigned property owners of the above identified property, do hereby acknowledge receipt of this Special Use Permit. The undersigned owners do further acknowledge that no work may be done pursuant to this Permit except in accordance with all of its conditions and requirements, that failure to comply with the approved terms and conditions stated herein will result in forfeiture of this Permit, and that these restrictions shall be binding on them and their successors in interest.

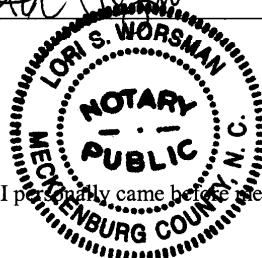
ZV Smith, Jr. Family Trust

By Zebulon V. Smith III
Zebulon V. Smith, III
Trustee

By Kristen L. Smith
Kristen L. Smith
Trustee

NORTH CAROLINA
Mecklenburg COUNTY

I, Lori S. Worsman, a Notary Public, certify that Zebulon V. Smith III personally came before me this day and acknowledged the due execution of the foregoing instrument.

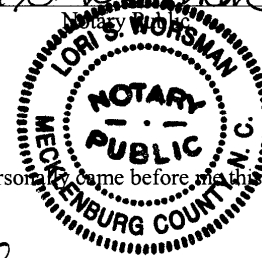


Lori S. Worsman

My commission expires June 14, 2020

NORTH CAROLINA
Mecklenburg COUNTY

I, Lori S. Worsman, a Notary Public, certify that Kristen L. Smith personally came before me this day and acknowledged the due execution of the foregoing instrument.



Lori S. Worsman
Notary Public

My commission expires June 14, 2020

(Not valid until fully executed and recorded)

